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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/501,263

01/25/2005

Juergen Loeffler

10191/3821

7492

26646

7590

09/14/2006

KENYON & KENYON LLP  
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NEW YORK, NY 10004

EXAMINER

YOUNG, EDWIN

ART UNIT

PAPER NUMBER

3681

DATE MAILED: 09/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/501,263

Applicant(s)

LOEFFLER ET AL.

Examiner

Edwin A. Young

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/9/04, 2/2/06, &amp; 8/8/06</u> . | 6) <input type="checkbox"/> Other: ____.  |

### **DETAILED ACTION**

1. This is the first action on the merits for application 10/501,263. Claims 11-20 are pending in this application. Receipt is acknowledged of the substitute specification filed on 7/9/2004, which has been entered.

#### ***Priority***

2. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. PCT/DE02/03341, filed on 9/07/2002.

#### ***Information Disclosure Statement***

3. The information disclosure statements (IDS) submitted on 7/9/2004, 2/2/2006, and 8/8/2006 have been considered by the examiner.

#### ***Drawings***

4. The replacement drawings were received on 7/9/2004. These drawings are not acceptable because the added wording is not legible.

#### ***Specification***

5. The disclosure is objected to because of the following informalities: page 9, line 14, "96" should be changed to --98--.

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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7. Claims 13 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites the limitation "the setpoint wheel braking torque" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 recites the limitation "an instantaneous transmission output torque is gated with a request signal of a brake pedal" in lines 2-4. However, an output torque cannot be combined with a signal. Therefore, applicant should amend the claim to read --an instantaneous transmission output torque **signal** is gated with a request signal of a brake pedal--.

Claim 19 recites the limitation "the transmission" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over TABATA et al. (EP 1160119 A1) in view of BOHM et al. (US 6,457,784).

Regarding claim 11, TABATA et al. teaches a method for controlling a hybrid drive of a vehicle (see Fig. 1), the hybrid drive including as propulsion motors an internal combustion engine (10) and at least one electric motor/generator (20), and output shafts

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of the propulsion motors (12 and 13) being operatively linkable to a power train (30) of the vehicle, the method comprising activating the propulsion motors and a braking system of the vehicle in a coordinated manner, as a function of a negative torque demand, and taking the negative torque demand into account (see page 10, column 18, lines 6-8 and page 15, column 28, lines 26-40). However, TABATA et al. does not teach the braking system of the vehicle being electrically activated.

BOHM et al. teaches a method for controlling the braking torque of an electric vehicle (see Abstract) wherein an electrically activated braking system is used (see column 4, lines 38-49 and column 5, lines 20-35).

Regarding claim 1, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the braking system of TABATA et al. with an electrically activated one, in light of the teachings of BOHM et al., in order to provide individual control of the brakes as taught by BOHM (see column 3, lines 47-56).

Regarding claim 12, TABATA et al. teaches specifying a setpoint wheel braking torque for the braking system taking an operating state of the hybrid drive into account (see page 15, column 28, lines 35-40).

Regarding claim 13, TABATA et al. teaches specifying a setpoint wheel braking torque by gating an instantaneous transmission output torque signal with a request signal of a brake pedal (see page 15, column 28, lines 37-40). Note that also, BOHM et al. teaches specifying a setpoint wheel braking torque by gating an instantaneous

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transmission output torque signal with a request signal of a brake pedal (see column 5, lines 36-52).

Regarding claim 14, TABATA et al. teaches a request signal delivered by a brake pedal being interpreted within a range that is defined by operation-related state data of the braking system and instantaneous torque or power potentials of the hybrid drive (see page 15, column 28, lines 26-40).

Regarding claim 15, TABATA et al. teaches operating data of the internal combustion engine and of the electric motor/generator being taken into account for torque and power potentials of the hybrid drive (see page 15, column 28, lines 30-32).

Regarding claim 16, TABATA et al. teaches an operating state of an on-board electrical system being taken into account for a torque and power potential of the electric motor/generator (see page 15, column 28, lines 4-7).

Regarding claim 17, TABATA et al. teaches at least one of a battery state of charge, and a battery voltage is taken into account (see page 15, column 28, lines 4-7).

Regarding claim 18, TABATA et al. teaches possible operating modes of the hybrid drive being taken into account for torque and power potentials (see page 12, column 22, lines 23-36 and page 13, columns 23-24, lines 55-58 and 1-5).

Regarding claim 19, TABATA et al. teaches a selected gear of the transmission being taken into account for torque and power potentials (see page 17, column 32, lines 42-50).

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Regarding claim 20, TABATA et al. teaches a shifting state of clutches of the hybrid drive being taken into account for torque and power potentials (see page 26, column 49, lines 39-57).

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- TABATA et al. (US 6,459,980) teaches a method of controlling a vehicle braked with motor torque.
- TABATA et al. (US 6,719,076) teaches a method of controlling a vehicle braked with motor torque.


11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin A. Young whose telephone number is 571-272-4781. The examiner can normally be reached on M-F 8-3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EAY

 9/12/06  
Richard M. Lorence  
Primary Examiner  
AU 3681



not acceptable  
EAY  
9/12/06

AMENDMENTS TO THE DRAWINGS:

The attached Replacement Sheets include changes to Figures 1 and 2. These sheets replace the original sheets containing Figures 1 and 2.

Attachment: Replacement Sheets